UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1997/SR.27
19 November 1997

Original: ENGLISH

PROPERTY OF
PRINCETON UNIVERSITY
LIBRARY

MAR 2 9 1998

UNITED NATIONS
COLLECTION

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventeenth session

SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 November 1997, at 10.30 a.m.

Chairperson: Mr. ALSTON

CONTENTS

ORGANIZATION OF WORK

ADOPTION OF THE AGENDA

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-19303 (E)

The meeting was called to order at 10.40 a.m.

ORGANIZATION OF WORK (item 2 of the provisional agenda)

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (E/C.12/1997/5)

1. The CHAIRPERSON welcomed the members of the Committee. The Secretariat had received a fax late on 14 November from the Government of Luxembourg, informing the Committee that it would be unable to send a delegation to the session and requesting permission to present its report in 1998. The rules of procedure indicated that a State party was bound to abide by a schedule for the presentation of its report once the date had been set. Only under very exceptional circumstances should the Committee allow that principle to be altered. In previous years, a number of States parties had cancelled their presentations at the last minute, significantly prejudicing the work of the Committee. Indeed, Libya had cancelled its presentation shortly before the previous session, and the Committee had decided to examine its report in absentia. The Government of Luxembourg had sent a representative and he invited him to address the Committee.

2. Mr. WEBER (Luxembourg) said his Government wished to apologize to the Committee. Luxembourg, having assumed the presidency of the European Union, was experiencing last-minute difficulties in its preparations for the Summit on Employment. It hoped the Committee would allow it to present its report the following year; if not, the Government would take note of the concluding observations.

3. The CHAIRPERSON said that simply to accept the request of the Government of Luxembourg would set an unfortunate precedent. All Governments were always burdened by urgent business; to notify the Committee at the last moment was unacceptable. The Committee had three options: first, it could agree to Luxembourg's request; second, it could begin the consideration of Luxembourg's report in absentia, adopt preliminary conclusions, and schedule the examination of the report for a later session; or third, it could advise Luxembourg that withdrawal was unacceptable, and invite the Government to send a delegation on Tuesday, 2 December, during the third week of the session. He recalled that the Committee had adopted the third approach in the case of Libya.

4. Mr. GRISSA said that the Summit on Employment had been scheduled long ago, which should have given Luxembourg enough time to make the appropriate arrangements.

5. Mr. RIEDEL, supported by Mr. ANTANOVICH, said that, although Luxembourg's circumstances were indeed exceptional, there was no excuse for informing the Committee at such a late date. He preferred the third option, although it would place the Committee under severe time pressure. That option should not, however, constitute a precedent.

6. Mr. SADI said that a decision should be deferred until it could be determined whether Luxembourg was in a position to present its report in the last week of the session.

7. Mr. CEAUSU suggested that, to gain time, a representative of the Permanent Mission of Luxembourg should be invited to attend a meeting at which members could make comments and pose additional questions. The delegation of Luxembourg could then answer those questions when it came before the Committee later in the session.

8. Mrs. BONOAN-DANDAN questioned whether Luxembourg would be ready to present its report later in the session and, by the same token, whether it would have time to reply to further questions. The Committee should consider the course it would take if Luxembourg proved unable to send a delegation during the present session.

9. Mr. GRISSA agreed that the Committee should reschedule consideration of Luxembourg's report for later in the session and suggested that a representative from the Permanent Mission should perhaps be invited to attend if the Government could not send a delegation.

10. Mr. RATTRAY said the rules of procedure had been designed so as to allow for constructive dialogue between the Committee and the State party. The presence of a representative from the Permanent Mission would not serve that purpose. In addition, Luxembourg should be asked to provide written replies to the list of issues.

11. The CHAIRPERSON instructed the Secretariat to contact Luxembourg forthwith, to state in strong terms that the Committee was not in a position to change its procedures, and to request Luxembourg to present its report during the third week of the session as well as to forward written replies.

12. Mr. TEXIER said that he and Mr. Wimer had submitted their report concerning the Dominican Republic to the Secretariat only the previous week. Since it had not as yet been reproduced or translated, he wondered whether they should present an oral report to the Committee.

13. The CHAIRPERSON said that the Committee had already adopted a number of preliminary concluding observations, but had agreed to revert to the matter. It had been seeking a dialogue with the Government for some seven years and now there was every indication that the Dominican Republic was open to responding to many of the issues on which the Committee had voiced concern. It was gratifying that a high-level delegation from that country was to speak before the Committee. Since Mr. Texier and Mr. Wimer's report had only just been completed, there would be no written text available and he proposed asking them to make an oral presentation of their findings.

14. The Committee might then focus in its discussion with the delegation on the issues identified by Mr. Texier and Mr. Wimer. There would be no point in going back to the original government report, and the Committee's preliminary concluding observations would form part of the discussion. If that was acceptable, the agenda could be left as it stood with regard to the Dominican Republic, and Luxembourg could be retained until further information was available. If he heard no objection, he would take it that the Committee agreed to such a course and wished to adopt the agenda.

15. It was so decided.

16. The agenda (E/C.12/1997/5) was adopted.

17. Mr. AHMED suggested that the Iraqi delegation should be asked whether it was in a position to come before the Committee a day earlier if the Luxembourg delegation did not appear; if it was not, he wondered how the Committee intended to use that time.

18. The CHAIRPERSON said that the Secretariat would explore that option.

19. A number of developments in the past six months were of direct concern to the Committee. The Secretary-General's reform proposal of 16 July suggested that the Committee should in future report first to the Commission on Human Rights and then to the Economic and Social Council. It was a strange recommendation which had no particular practical effect, because an advance version of the Committee's reports usually went to the Commission and then on to the Council. He had inquired as to why the proposal had been made, because it was not explained in the Secretary-General's report. Apparently, there had been discussions on the desirability of the Commission's considering the Committee's report in conjunction with the report of the Intergovernmental Group of Experts on the Right to Development. That was odd, since there was no tie-in between an ad hoc working group with a mandate of two or three years and the mandate of the Committee. From a theoretical standpoint, it was a negative development, because it would make the Committee the only one of the six treaty bodies to have been requested to report first to the Commission on Human Rights. In practice, it made no difference. If the Committee felt strongly enough about it, it might send a letter to the Secretary-General, but even that would not be assured of success. His proposals had been made clearly and, given the difficulties of the reform process, which had been greatly exacerbated by the announcement of the United States Congress several days ago that it would not agree to pay the more than US$ 1 billion owed the United Nations, he doubted whether that was an issue which would be given particular prominence. Indeed, there was a need to adopt as much of the Secretary-General's reform package as possible.

20. In the Secretary-General's annual report on the work of the Organization, there was very little reference to human rights and none whatsoever to economic, social and cultural rights. That was either because the Secretariat in Geneva had not included anything on the subject in its draft, or because references included in Geneva had been deleted in New York. It was unfortunate that there should be a detailed section on children and women, but no mention of economic, social and cultural rights.

21. The arrival of the new High Commissioner for Human Rights had been a very positive development. He welcomed her statement in the Third Committee affirming the importance she attached to economic, social and cultural rights, about which she was clearly very serious. She had stressed the need to ensure that the United Nations system made human rights questions a part of all its activities.

22. The report adopted by the Meeting of Chairpersons of the treaty bodies in September 1997 contained a number of issues that needed to be addressed by the Committee. The ongoing reform initiative was affecting the work of the treaty bodies, and he proposed that a discussion should be held on the recommendations contained in the report, time permitting. One proposal was

that the chairpersons should meet exceptionally in February 1998 to discuss the reaction of the treaty bodies to the reform proposals. He would be in a position to attend such a meeting on behalf of the Committee.

23. Several weeks ago the Government of China had announced that it had signed the International Covenant on Economic, Social and Cultural Rights. He had no information on when it might be ratified, but hoped it would be done soon, as the Chinese Government had been examining the Covenant for at least the past 11 years. In Manila in 1986, he had been assured by the Government that it had examined the Covenant very closely and was on the verge of ratifying it. The Government of China had not announced ratification of the International Covenant on Civil and Political Rights.

24. Another problem which had arisen in late August 1997 was the announcement by the Democratic People's Republic of Korea that it would denounce the International Covenant on Civil and Political Rights. The formal justification given was that the Sub-Commission on Elimination of Discrimination and Protection of Minorities had adopted a resolution criticizing it for not reporting on time. If the Democratic People's Republic of Korea went ahead with its intention, it would be the first time that a State had withdrawn from one of the key human rights treaties. At the Meeting of Chairpersons, it had been stressed that such a step would be incompatible with the provisions of the Covenant. The Human Rights Committee had adopted a general comment in that regard, indicating that it was not possible to denounce the Covenant, which contained no provision for such a step. The matter was of great importance to the Committee.

25. In another development, Jamaica had announced that it would withdraw from the First Optional Protocol to the Covenant, to take effect on 23 January 1998. Provision was made for such a possibility in the Optional Protocol. Although that was regrettable, it was a very different case from the one of the Democratic People's Republic of Korea.

26. It was his understanding that the Economic and Social Council had still taken no decision on the various matters the Committee had put before it and that at a meeting next month in New York it would decide on the Committee's requests for an additional session in 1998, additional time for a working group on general comments, and so on. Hence, it was not certain the Committee would have a reply from the Council before the end of its current session. A draft resolution before the General Assembly foresaw the payment of honoraria to the members of the Committee, but it remained to be seen whether it would be adopted.

27. As to the substance of the issues that the Committee must address, a number of statistics were revealing. The United Nations Development Fund's Human Development Report published earlier in the year indicated that 40 per cent of the population in sub-Saharan Africa lived in poverty and that 32 per cent would not reach the age of 40. That contrasted with a recent report of an NGO coalition which showed that, according to the latest figures available, which were a couple of years old, multilateral aid to Africa had fallen by 22 per cent and bilateral aid by 14 per cent. In the past year, World Bank loans to Africa had declined by 43 per cent for education and by 65 per cent for health.

28. A series of meetings with various United Nations agencies in New York had led him to the disturbing conclusion that the rights with which the Committee was concerned were treated as "unmentionable rights". Expressions of support for the Committee's work were often offered along with the admission that economic, social and cultural issues were not viewed in terms of rights.

29. There was a strong sense that the trend towards globalization was increasingly and inexorably linked to privatization of functions previously performed by Governments, and a tendency towards deregulation. Ironically, the shrinking of State functions was not accompanied by a corresponding, reduction in the amount of GDP allocated to those functions. Most States were consequently able to maintain their oppressive strength while divesting themselves of their capacity to act forcefully with respect to economic, social and cultural rights.

30. He was heartened by the recent comment of the High Commissioner for Human Rights, who had stated her preference for the wording of the two Covenants and the Universal Declaration of Human Rights over terms employed by the International Monetary Fund and the World Bank, such as "human development", "human well-being", "human security", "good governance" and "basic needs". She had said that the Covenants and the Declaration had the force of treaty law and directly empowered people at the grass-roots level, informing them of their rights to security, dignity, economic opportunity and a better way of life for their children. Those instruments did not constitute a vague and undefined entitlement to a favour bestowed by a Government or an international agency. In that connection, he took the opportunity to refer to General Comment No. 2, urging international agencies to make effective use of the terminology of rights and to incorporate economic, social and cultural rights into the basic framework of their activities. The Committee should respond urgently to the adverse effects of globalization, privatization and deregulation, or else it would run the risk of becoming increasingly irrelevant.

31. The United Nations Development Assistance Framework (UNDAF) had been implemented experimentally in 20 countries. The Framework was aimed at providing a uniform context in which all United Nations agencies in a given country could operate. As far as the human rights dimension of United Nations work under the Framework was concerned, reference was made to the Convention on the Rights of the Child, but none to either of the Covenants. It was therefore up to the Committee to encourage UNDAF to take into account the fact that 137 States were parties to the Covenant.

32. Mrs. RONOAN-DANDAN asked for further information on the resolution on gender and housing rights adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

33. Mr. TEXIER said that the Committee and the entire international community were facing the challenge of the "complementarity" of human rights. It was time to denounce the utter hypocrisy behind the talk about complementarity for no one was seriously concerned about economic, social and cultural rights. The two Covenants were not on an equal footing, in spite of appearances.

34. Apart from the fact that the Committees dealing with economic, social and cultural rights and with civil and political rights did not have the same status, even more worrisome was the prevalence of massive violations against economic, social and cultural rights. In many countries as much as 50 per cent of the population lived below the poverty line, education was scarcely available, and health and housing rights were clearly abused. Similarly, in developed countries, an increasing number of people were marginalized, living in poverty and without homes. The incidence of violations which hid behind globalization, privatization and deregulation should be of grave concern to the Committee. Imbalances also existed in NGO treatment of the rights in question. There were far fewer organizations concerned with economic, social and cultural rights than with civil and political rights.

35. Current economic trends would widen the gap between rich and poor, between those participating in the development process and those who were left behind, and it was in that light that the Committee should make a forceful statement on an untenable situation. Those pressing issues also had a bearing on the Committee, which should be provided with greater means to operate.

36. In view of the signs of impending catastrophe evident in popular unrest and increasing migratory flows, the Committee should not hesitate to highlight, during the celebrations of the anniversary of the Declaration in 1998, the existence of de facto inequality, to assert that complementarity was an illusion, and to say that it was time to take economic, social and cultural rights seriously.

37. The CHAIRPERSON suggested that the Committee might consider making a statement to coincide with the beginning of celebrations for the fiftieth anniversary of the Declaration.

38. Mr. SADI referred to the profound changes in world development that affected economic, social and cultural rights. The new international order was obviously dominated by the United States and, unless the United States Government's opposition could be softened, economic rights were destined for atrophy. In his opinion, the High Commissioner for Human Rights could serve as a link between the Administration in Washington and the Committee on Economic, Social and Cultural Rights. Without United States endorsement and an understanding of the Committee's anxieties and activities, all efforts to promote respect for economic, social and cultural rights would be futile.

39. Mr. KOUZNETSOV asked for further information on the Secretary-General's proposal, which the Chairman had qualified as "strange", and said he was curious about the position held by the High Commissioner for Human Rights in that regard.

40. The CHAIRPERSON explained that he had written a report in his capacity as an independent expert appointed by the Secretary-General at the request of the General Assembly. It had been submitted in late March 1997, had come before the Commission on Human Rights and proposed a number of reforms in the functioning of the treaty body system. After the submission of comments on the report by States parties, non-governmental organizations and other interested parties, they would be compiled by the Secretary-General and

presented at the Commission's next session. He invited the Committee to discuss the reform proposal at a later stage, after circulation of the report in the afternoon.

41. Mr. RATTRAY said that the depressing picture emerging from the Chairperson's comprehensive summary was symptomatic of some of the fundamental inadequacies and faults it was imperative to address. Part of the problem was that the rhetoric accompanying the proclamation of human rights had not been accompanied by the institutional measures required to bring them into being or by the educational measures needed to make national administrations and populations aware of how to achieve them or overcome the problems entailed. Without appropriate institutional measures the Committee could not accomplish its mission. One outcome was the large number of reports outstanding and another was general doubt as to the seriousness with which human rights questions were approached. As an example, Jamaica's denunciation of the Optional Protocol had been largely the result of the fact that it was not possible for the Human Rights Committee to examine communications promptly and so permit countries to take appropriate action within the required time frame.

42. In the case of Jamaica, decisions that it was inhuman to carry out the death penalty after an interval of over five years ran counter to that country's view that the most extensive opportunities should be provided to allow condemned persons to appeal against their conviction. Since it was virtually impossible to complete the sequence of procedures required to provide those opportunities within a space of five years, the paradox was that instruments created for the protection of human rights became the instruments of inhumanity because of the delay they occasioned. However, the organizational structure and methodology of work of international human rights organizations made response within an appropriate time frame impossible.

43. That lack of an appropriate infrastructure meant that a long hard look would have to be taken at all the monitoring mechanisms provided by the human rights framework in general to see whether they continued to be appropriate, whether any streamlining was possible and whether the kind of dialogue could be instituted that would lead States to carry out necessary reform measures of their own volition.

44. With regard to the responsibilities of the international community as a whole, there was a degree of inconsistency in the approaches used. States' actions needed to be assessed in terms of human rights in the same way as in the case of environmental issues, since human rights impact assessments would appear to be critical to any determination of the feasibility of structural adjustment programmes. The Committee should not be viewed in isolation but as one component of an international framework. The deficiencies or disadvantages of other bodies within that framework reflected on it and affected any influence it might have on the actions of States. Thus, a much more comprehensive approach was needed, not only with regard to the institutional framework as it affected the Committee but also in the human rights field in general and in the manner in which the international framework - whether aid agencies, economic agencies or the United Nations system as a whole - gave evidence of a consistent approach to human rights issues.

45. The CHAIRPERSON said the systemic overview that the Meeting of Chairpersons was endeavouring to achieve would be very important in that connection, since the human rights treaty bodies were not well placed to do so individually and no other forum within the United Nations was capable of focusing on such issues.

46. Mr. ANTANOVICH agreed with Mr. Texier that, although a single system of human rights was desirable, the two Covenants did not appear in practice to be viewed as of equal importance. Regardless of the forces behind it, globalization would bring major problems in relation to economic, political and cultural rights. In-depth examination of the situation was certainly called for and the forthcoming fiftieth anniversary of the Universal Declaration of Human Rights would provide an appropriate occasion to do so, especially in view of the advent of a new High Commissioner for Human Rights.

47. Human rights throughout the world were at a critical point. Globalization was reducing the role of Governments, while increasing privatization meant that such matters as pensions and social welfare would be left to individuals, leaving no responsible authorities to ensure that people's everyday needs were met. Changes in the way the Committee worked would therefore be necessary to see to it that economic, social and cultural rights were respected in the new globalized, privatized world. Although the Committee was active in considering the actual situation with respect to those rights in individual countries, some extension of its functions and prerogatives was necessary to ensure it had the requisite ability to determine new trends and new areas of concern affecting the rights under its jurisdiction and draw the attention of other bodies in the United Nations system to them by a direct report from the Committee to the General Assembly.

48. Ms. HODGES (International Labour Organization) said that ILO maintained its constant support for the Committee and was increasing its collaboration with the Office of the High Commissioner for Human Rights. The tightening up of some working procedures in the past two sessions and the efforts to improve cooperation with ILO, particularly with regard to the list of issues, had been appreciated.

49. As to globalization and the effective implementation of economic, social and cultural rights, it should be noted that the issue of globalization and international labour standards had been tackled by ILO in recent years, culminating in the publication in June 1997 of the Director-General's report on Globalization and International Labour Standards, which included many questions relating to implementation of economic and social rights common to ILO conventions and to the Covenant. In addition, at the current session of the ILO Governing Body, the Open-ended Working Party on the Social Dimensions of Liberalization of Trade was considering a number of papers on deregulation and privatization that might be of interest to the Committee's deliberations.

50. In relation to the options for action, the Director-General had, with a letter to Member States in May 1995, launched a campaign to encourage States that had not already done so to ratify seven ILO conventions relating to freedom from forced labour, freedom of association, elimination of discrimination in employment and freedom from child labour, on which information was regularly supplied to the Committee by ILO. That campaign had

to date led to over 60 new ratifications. In particular, two Member States whose reports would be considered by the Committee at its present session, Luxembourg and the United Kingdom, were re-examining ILO Convention No. 111 on discrimination in employment with a view to ratifying it.

51. However, as ILO constituents frequently pointed out, ratification on its own was not enough. Application of the contents of standards was the key to operation of the whole system. Efforts to that end were being strengthened by information provided verbally and in writing to the Committee by ILO.

52. Ms. CASSAM (United Nations Educational, Scientific and Cultural Organization) said that in an important move to strengthen application of the rights and principles of interest to the Committee and the United Nations system as a whole, the UNESCO General Conference had the previous week adopted a Universal Declaration on the Human Genome and Human Rights which was designed to protect the dignity and indivisibility of the human person and the human family by seeking to ensure that the human genome was not exploited for commercial purposes. In addition, UNESCO, as the United Nations specialized agency concerned with scientific cooperation and development between States, endeavoured through its 187 Member States to ensure that scientific knowledge respected the general principles enshrined in the Universal Declaration of Human Rights. The new Declaration, the culmination of a seven-year process initiated by the Director-General of UNESCO - himself a scientist - and entailing very detailed multilateral negotiations among all its Member States, had been timed to coincide with the fiftieth anniversary of the Universal Declaration of Human Rights.

53. Globalization was a development that UNESCO found very disturbing. However, as the Director-General of UNESCO had said, although globalization was often referred to as an inescapable natural phenomenon such as the weather, it was in fact a development of human history and included two new categories - the globalizers and the globalized - that had not previously existed. UNESCO would be pleased to make any contribution it could to the debate on globalization and on strengthening the Committee to ensure the protection of economic, social and cultural rights.

54. Mr. RIEDEL said he agreed that the equality between the status of economic, social and cultural rights and that of civil and political rights was only theoretical. In practice, the former were frequently violated or ignored. States often appeared to be unaware of their obligations in that regard, which was one of the main concerns globalization raised in the area of human rights. In the run-up to the fiftieth anniversary of the Universal Declaration of Human Rights, it was all the more important for the Committee to consider the impact on human rights of the unacceptable side of globalization. The proposal for human rights impact assessments was praiseworthy. The Committee should consider drawing up a checklist of key economic, social and cultural rights issues that States should be encouraged to use to determine the human rights impact of any deregulation measures under consideration. A public event such as the fiftieth anniversary of the Universal Declaration of Human Rights would be an excellent occasion for drawing such a list to the attention of States parties.

55. Mr. ADEKUOYE said that, in respect of globalization and deregulation, the Committee's efforts to encourage States to fulfil their obligations under the Covenant had had an effect in buttressing endeavours to promote economic efficiency, transparency and accountability. To take the case of pensions, in many countries State pensions had been unable to keep up with inflation, leading to considerable distress, so that privatization of pensions could be a means of making certain that the greater resources of the marketplace and the private sector could be used to underwrite pensions. However, such privatization could lead, as resources expanded, to inequalities among classes in a society or among nations.

56. Reconciling the Committee's work to ensure respect by States of their obligations under the Covenant with current efforts to seek greater efficiency through such avenues as deregulation and globalization should not, however, prove an impossible task. The increased resources provided by efficiency could well be employed to protect human rights. Any statement to be prepared by the Committee should thus recognize such inevitable trends, yet ensure that States were placed in a better position to protect the rights enshrined in the Covenant.

57. The CHAIRPERSON, noting the strong support expressed for adoption of a statement by the Committee in connection with the fiftieth anniversary of the Universal Declaration of Human Rights, said that a draft would be prepared for the Committee's subsequent consideration with a view to adoption of a final text by the end of the session.

The meeting rose at 5.55 p.m.